

# EXHIBIT X

DANTE T. MCKAY  
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

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1 IN THE UNITED STATES DISTRICT COURT  
2 FOR THE NORTHERN DISTRICT OF GEORGIA  
3 ATLANTA DIVISION

4 UNITED STATES OF AMERICA, ) CIVIL ACTION  
5 Plaintiff, ) NO. 1:16-cv-03088-ELR  
6 )  
7 vs. )  
8 STATE OF GEORGIA, )  
9 Defendants. )  
----- )

10  
11 VIDEO DEPOSITION OF

12 DANTE T. MCKAY

13  
14 Thursday, January 27, 2022, 10:07 a.m., EST

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18  
19 HELD AT:

20 Robbins Alloy Belinfante Littlefield LLC  
21 500 14th Street, N.W.  
22 Atlanta, Georgia 30318

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23  
24 WANDA L. ROBINSON, CRR, CCR, No. B-1973  
25 Certified Shorthand Reporter/Notary Public

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1 BY MR. HOLKINS:

2 Q Mr. McKay, you've just been handed what's  
3 been marked Exhibit 3. Please take a moment just to  
4 familiarize yourself or refamiliarize yourself with  
5 the document. You don't need to read every word but  
6 just let me know once you've finished.

7 (Witness reviews exhibit.)

8 A I've reviewed the document.

9 Q Thank you.

10 MR. HOLKINS: I'll note for the record  
11 that this document was produced by the State to  
12 the United States in this matter.

13 The Bates number is GA00249775.

14 BY MR. HOLKINS:

15 Q At the top of the document is a text  
16 Increase Review/Request, Dante McKay, 4/7 -- excuse  
17 me -- 4/27/20.

18 Mr. McKay, is it correct you submitted  
19 this document in April of 2020 in support of a  
20 request for a personal salary increase?

21 A I don't remember the exact date, but that  
22 sounds about right, yes.

23 Q And this document outlines your activities  
24 and responsibilities from February 2016 to the date  
25 of the request, correct?

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1 A Correct.  
2 Q Could you flip to Pages 10 and 11 of the  
3 document.

4 I direct your attention to the section  
5 titled, "Job Description (from 2015/2016)."

6 Do you see where I am?

7 A Yes.

8 Q Is this job description for your position  
9 still accurate?

10 Have there been any changes?

11 A The second bullet no longer applies.

12 Q And the second bullet, just for clarity,  
13 is "Develops annual strategic plan for C&A community  
14 health services delivery system." Is that correct?

15 A That's correct.

16 Q What does C&A stand for?

17 A Child and adolescent.

18 I do not produce an annual strategic plan.

19 Q When did that stop?

20 A I have not done that during my tenure.

21 Q Is there another staff member at DBHDD who  
22 is responsible for developing annual strategic plans  
23 for child and adolescent community health services?

24 A Not that I'm aware of.

25 Q I'd like to ask you some questions about

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1 Kenneth Ward now reports directly to my  
2 director, Monica Johnson.

3 Q I believe you said that Robert Dorr has  
4 retired; is that correct?

5 A Yes, that's correct.

6 Q And has someone filled that vacancy, or  
7 has the position been eliminated?

8 A This division has been, to my knowledge,  
9 dissolved and the responsibilities added elsewhere  
10 in various places within the department.

11 Q So let's set this document aside and  
12 return to Exhibit 3.

13 Back on Page 10, one of the  
14 responsibilities listed is "Manages the CFY  
15 Community Mental Health Budget."

16 Do you see that line?

17 A I do.

18 Q Could you describe what that entails?

19 A So I do this in combination with a budget  
20 office and budget team, but broadly my role is to be  
21 aware of what the appropriations are for that  
22 annually, and along with other members of my team or  
23 my office or within -- across other offices is to  
24 monitor that utilization and expenditures  
25 month-to-month and annually.

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1 acknowledgment of receipt.

2                  From there, I don't know what happens.

3                  Q        And have you made requests for  
4 school-based mental health budget items that have  
5 been approved?

6                  A        So there's an active request now for an  
7 increase that -- my understanding it's being  
8 considered as part of this current legislative  
9 session.

10                 Last legislative session we received an  
11 increase of \$2 million, but that was not in response  
12 to a specific ask from myself or my team.

13                 And then prior to that, in Governor Deal's  
14 last office -- last year in office, there was a --  
15 there was a commission, Georgia -- the Commission  
16 for Children's Mental Health, where one of the  
17 recommendations was to increase the school-based  
18 budget for my office, and we received an increase  
19 that year. I think it was just over \$4 million.

20                 That wasn't in -- I think we had a broad  
21 ask when, you know, we were being asked about what  
22 needs were and, you know, the things that we want to  
23 see happen, but we didn't make a specific ask but we  
24 received an increase.

25                 Q        And how much additional funding is the

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1 current request for, the one that's pending?

2 A I don't remember the number exactly. I  
3 think it's in the ballpark of \$5 million.

4 Q And what is -- how would you want to  
5 allocate that additional funding?

6 A To sustain the last expansion of the  
7 school-based program, which we refer to as Apex, and  
8 in Governor Kemp's first year in office he  
9 recommended and the legislature approved a one-time  
10 allocation of \$8.4 million.

11 And we have asked for annualization of  
12 half of that, that appropriation, in addition to  
13 restoration of some funds that were lost during our  
14 budget reduction a couple years back.

15 Q I just want to make sure the record is  
16 clear that that one-time allocation, was it 1.8  
17 million or 8. --

18 A I believe it was 8.4 million.

19 Q Thank you.

20 So, in your view, is this \$5 million  
21 allocation that you've requested necessary to  
22 sustain the Apex program at its currently level?

23 A To sustain the last expansion of the Apex  
24 program at its current level, yes.

25 Q We're going to skip ahead a little bit

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1 here. We're going to talk a lot about Apex later,  
2 but I'm just -- since we're talking about it now,  
3 could you describe what that last expansion  
4 entailed?

5 A Apex is a single statewide program, and it  
6 has -- we use different titles for it based upon the  
7 funding sources that are supporting it. Single  
8 program supported by multiple fund sources.

9 Apex 1.0 is supported by the core CYF  
10 budget. Apex 2.0 was annualized funding that we  
11 received by way of the recommendations from Governor  
12 Deal's Commission on Children's Mental Health. And  
13 Apex 3.0 was funding received by way of Governor  
14 Kemp, which was a one-time appropriation.

15 Q Thank you.

16 Through that Apex 3.0 appropriation, how  
17 many additional schools were enrolled in the  
18 program?

19 A I don't know off the -- I don't know that  
20 amount. It's a rolling program.

21 Q Is it fair to say there are schools that  
22 were previously not participating in Apex that now  
23 are participating in Apex because of Apex 3.0?

24 A Yes.

25 Q More than 10?

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1 A I would say more than 10.

2 Q More than 50?

3 A I can't say it's more than 50. It would  
4 be speculation.

5 Q Is there a document that you could refer  
6 to that would give you a more specific figure for  
7 the number of schools that were enrolled through  
8 Apex 3.0?

9 A There is a document. So we receive  
10 regular reporting on the number of schools,  
11 organized by fund source. Typically, it's just a  
12 listing. It is not numerized.

13 Q Thank you.

14 So while we're on the topic of budgeting,  
15 I want to show you another document. Can you set  
16 aside Exhibit 3 just for a minute.

17 (WHEREUPON, Plaintiff's Exhibit-5 was  
18 marked for identification.)

19 BY MR. HOLKINS:

20 Q So you've just been handed what's been  
21 marked Exhibit 5.

22 MR. HOLKINS: I'll note for the record  
23 that this document was produced to us by the  
24 State, by I mean the United States.

25 The Bates number is GA00051873.

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1 BY MR. HOLKINS:

2 Q Mr. McKay, please take a minute to review  
3 the document and let me know when you've finished.

4 (Witness reviews exhibit.)

5 A I've reviewed the document.

6 Q Have you seen this before?

7 A I have seen various versions of what looks  
8 like this. But please allow the record to reflect  
9 that I cannot read this -- the last couple of pages.  
10 It's very small.

11 Q I'm sorry for that. This is how it  
12 printed out. We can just speak generally about the  
13 document.

14 I'll note the file name for the document  
15 is "Budget Tracking Summary, Updated 7.10.2020."

16 On the first page, which I think you can  
17 read -- are you able to read the first page?

18 A I am.

19 Q This identifies DBHDD programs as well as  
20 the FY2020 base budget, and then a 14 percent, 11  
21 percent, and 10 percent reduction to that base  
22 budget.

23 Is that accurate?

24 A The reductions I think were proposed based  
25 upon various factors that were going on at the time.

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1 Q So I'll just first note that among the  
2 DBHDD programs listed is C&A MH.

3 Do you see that text?

4 A I do.

5 Q Does that stand for child and adolescent  
6 -- or Children and Adolescent Mental Health?

7 A It does.

8 Q Is that broadly the budget for your  
9 office?

10 A Yes, that's correct.

11 Q So you mentioned that these were reduction  
12 proposals made based on various factors. My  
13 question is whether you had any involvement in the  
14 proposed reduction for C&A MH?

15 A Yes.

16 Q Can you describe your involvement?

17 A My involvement was to respond to requests  
18 from our budget team. You know, there were various,  
19 I guess, questions made in terms of program  
20 locations, program liability, staffing factors.

21 There was a -- there was a particular  
22 number that we needed to get under, whether it was  
23 14, 11, or 10 percent, and in an effort to get under  
24 that number, as a part of global work going on at  
25 the agency, we were asked to respond to, you know,

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1 several questions about certain things. And then  
2 based upon that feedback, some decisions were made.

3 So in terms of what's listed here, the  
4 \$71.5 million, I can't confirm that that's the exact  
5 amount. That seems about right. The more recent  
6 version of the budget that I've seen was around \$49  
7 million.

8 Q Would that be for FY2022?

9 A I don't know if it's the current fiscal  
10 year or the upcoming fiscal year.

11 Q So it's fair to say there's been a  
12 meaningful reduction in your office's budget between  
13 FY2020 and the current fiscal year; is that correct?

14 A That is correct.

15 Q Is it also accurate that you were  
16 functionally making recommendations about where to  
17 cut money from your own budget; is that right?

18 A I would rephrase it to say I was asked  
19 questions about impact to -- if a program was cut,  
20 what would be the impact, based upon various  
21 factors.

22 Q What recommendations did you make for  
23 where to make these cuts?

24 A I don't remember specifically, but it was  
25 a full view of the programs within my office, to

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1 include things like youth mental health clubhouses,  
2 Apex, funding to core providers.

3 It was just a broad view of if this were  
4 to go away, what would be the impact. If this was  
5 reduced, what do you think would be the impact?

6 I can't give specifics. It was a moving  
7 target, very quickly, and a lot to consider.

8 Q Do you recall ultimately where those  
9 budget cuts were made?

10 A I could name two specifics, but -- or two  
11 generalities, but overall cuts, I don't remember  
12 offhand.

13 There was a reduction to the Apex program,  
14 and then there was a reduction to the youth mental  
15 health clubhouses around the State. I believe we  
16 reduced by three. Three were closed.

17 Q And you -- first off, you referenced core  
18 providers. What are those?

19 A So DBHDD has a three-tier provider  
20 network. Tier 1 would be our safety net for -- that  
21 serves uninsured individuals or underinsured.  
22 They're referred to as community service boards.  
23 Tier 1 providers are core providers.

24 Tier 2 are traditionally Medicaid. They  
25 bill Medicaid for services, but there are Tier 2

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1 would show core service utilization across the  
2 State?

3 A Not directly, but through our office of  
4 Medicaid coordination we may make requests. Through  
5 Georgia State University we may make requests.

6 Q Do you receive regularly from Georgia  
7 State University to start reporting on core service  
8 utilization across payor sources?

9 A For specific programs?

10 Q For example, for Apex.

11 A For Apex, and Apex is -- Apex is more of a  
12 framework. It's a programmatic framework. It does  
13 not produce any new services that are not already  
14 available as a part of the core -- our core packet  
15 -- core service package.

16 For example, an Apex report will say X  
17 number of students receive individual counseling for  
18 this month. Individual counseling is a service  
19 available to core providers that is part of our core  
20 benefit package.

21 Q Let's stick with individual counseling as  
22 a concrete example. Are you tracking, not specific  
23 to Apex or any program, utilization of individual  
24 counseling by children regardless of payor source  
25 across the State?

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1           A     Only for specific programs. So Apex -- so  
2 the ones that we contract with Georgia State for,  
3 Apex, Clubhouse, IC3, we see that, that rich data.  
4 Outside of that, I do not see that type of  
5 utilization, unless there is a specific request, ad  
6 hoc request, and then it would be only those who are  
7 uninsured or receive services or SSI Medicaid and  
8 receive services.

9           Q     So when you make those specific ad hoc  
10 requests, you're not accessing data for Medicaid  
11 enrolled or CMO enrolled children?

12          A     No. So John, our IT folks, whoever pulls  
13 the utilization data, they don't have access to  
14 Medicaid data.

15          Q     Okay.

16          A     They have -- at least not CMO Medicaid  
17 data. They have access to SSI Medicaid. They have  
18 access to uninsured.

19               So if I request that information, it is  
20 only a -- it's only a part of the picture. It's not  
21 the full picture.

22          Q     We're going to take a break in a few  
23 minutes. I think we're about overdue, but I just  
24 want to finish this line.

25               Just for clarity, services like individual

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1 questions about this document.

2 First off, was your request for a salary  
3 increase in April 2020 granted?

4 A Not in April 2020.

5 Q Did you make a request after this one?

6 A I made reminders.

7 Q But it was the same request?

8 A It wasn't specific, but just a reminder  
9 about this document.

10 Q And, ultimately, was the request for a  
11 salary increase approved?

12 A I did receive an increase. I want to say  
13 -- in December of 2020.

14 Q And have you submitted any salary requests  
15 since then?

16 A I have not.

17 Q I want to show you another document.

18 (WHEREUPON, Plaintiff's Exhibit-6 was  
19 marked for identification.)

20 BY MR. HOLKINS:

21 Q You've just been handed what's been marked  
22 as Exhibit 6.

23 MS. COHEN: I'll note for the record this  
24 is GA01748346, produced by the State of Georgia  
25 to the United States.

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1 BY MR. HOLKINS:

2 Q Mr. McKay, please take a moment to review  
3 the document and let me know when you've finished.

4 A I'm finished.

5 Q So if you turn to -- well, first, the  
6 first page, the file name for this document is "Book  
7 of Business, OCYF, August 20."

8 Is that correct?

9 A Yes, that's correct.

10 Q Could you describe what this document is?

11 A This was an attempt to assess the  
12 commitment of my team, of my office and my team  
13 members, as it relates to attending various meetings  
14 and demands on their schedule and their time.

15 Q Did you draft this document?

16 A Yes, I did.

17 Q Did you receive input from the members on  
18 your team with respect to this document?

19 A Mostly confirmation of the accuracy of  
20 these meetings, and if something was missing and  
21 needed to be added.

22 Q So the document identifies a number of  
23 tasks or committees and then designates a lead staff  
24 person within your office for each of those  
25 activities. Is that accurate?

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1                   What coordination, as part of your  
2 official duties, do you do with the Georgia  
3 Department of Education?

4                   A     There's a standing Apex leadership meeting  
5 that I participate in, if my schedule allows. In  
6 one of those meetings per month DCH participates.

7                   The other thing that happened as of  
8 September of 2021 is that Layla Fitzgerald became  
9 officially as in between my office and DOE.

10                  Q     I'd like to talk more about that, but  
11 first I want to go back and just clarify. I think  
12 the record says that DCH participates in the  
13 standing Apex leadership meeting. Did you mean to  
14 refer to Georgia Department of Education?

15                  A     Yes.

16                  Q     And outside of that meeting, what are the  
17 standing meetings in which you coordinate directly  
18 with staff at the Georgia Department of Education?

19                  A     That's it. And I don't coordinate that  
20 meeting.

21                  As part of the Apex work, our contract  
22 vendor with Georgia State convenes that meeting, and  
23 I participate as my schedule permits.

24                  Q     Are you responsible for providing any  
25 trainings to your staff at OCYF?

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1 Q Are you familiar with how the individuals  
2 in those offices go about assessing provider  
3 performance in connection with the provider manual?

4 A I am not. What I do know is that we have  
5 KPIs, metrics, standard metrics, that they assess  
6 according to some frequency.

7 Key performance indicators is KPI.

8 Q Thank you.

9 Does DBHDD have its own fidelity standards  
10 with respect to services in its provider manual?

11 A I don't know the answer to that.

12 Q Are you familiar with the term  
13 "evidence-based practice"?

14 A Yes.

15 Q What is an evidence-based practice?

16 A It is a practice that's been vetted by and  
17 approved by, scientifically, by the research  
18 community.

19 Q Is it important in your view that  
20 Georgia's behavioral health service providers use  
21 evidence-based services?

22 MR. PICO PRATS: Objection.

23 You can answer.

24 A Yes.

25 Q Why?

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1           A     Because they have been vetted and found to  
2 be -- they're to be benefits for them. There are  
3 hundreds of EBPs, and EBPs are not consistent across  
4 industries. So behavioral evidence-based practices  
5 may not be the same as educational evidence-based  
6 practices. But it's a value to having something to  
7 promote benefits of a particular practice and to  
8 have that tested and vetted and verified.

9           Q     And do you undertake any efforts in your  
10 official role to promote implementation of  
11 evidence-based services in the State of Georgia?

12          A     We, as a part of our training offerings,  
13 we select certain evidence-based practices that we  
14 make available as part of, say, the annual System of  
15 Care Academy.

16               My office, over the last year, launched a  
17 Clinical Development Academy that includes offerings  
18 of some EBPs.

19               Evidence-based practices are for fidelity  
20 to the model or for behavioral health practitioners  
21 that require annual educational credits. It may be  
22 unobtainable to offer an EV-based practice or to  
23 receive training in an evidence-base without a  
24 particular offering that is sponsored by -- through  
25 an educational opportunity like my office offers.

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1 Q Let me just try to understand your last  
2 statement.

3 So you're saying that for some providers,  
4 unless they have specific educational opportunities,  
5 they're not going to be able to provide  
6 evidence-based services -- educational opportunities  
7 like the ones provided by your office?

8 A No, I'm not saying that.

9 Q Could you clarify? I'm sorry.

10 A It would be more difficult.

11 For example, as attorneys you're required  
12 to have continued legal education, but attorney  
13 salaries are typically higher than your average  
14 position -- your average profession, and so you may  
15 be able to pay for those out-of-pocket or you may go  
16 to bar-sponsored things where you don't have to pay.

17 Behavioral health professionals are  
18 typically some of the lowest paid individuals in the  
19 industry, and education -- but they are still  
20 required to have annual or bi-annual educational  
21 credits, which in an evidence-based practice that  
22 may be unobtainable based upon their annual  
23 salaries.

24 So as part of our educational offerings,  
25 like the annual System of Care Academy, we'll make

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1 some of those things available and we will cover the  
2 cost of those educational credits.

3 Q Do you think that what DBHDD is currently  
4 offering is sufficient to meet the needs for  
5 training on evidence-based services for behavioral  
6 health service providers?

7 MR. PICO PRATS: Objection.

8 A I can't speak to that.

9 Q Why not?

10 A That's a very broad question, and it would  
11 require speculation.

12 I do know that individuals that attend our  
13 trainings are not just -- there may be individuals  
14 employed with the Department of Family and Children  
15 Services or the Department of Community Health, or  
16 even the Department of Education. What we're  
17 offering, if it's sufficient to support an entire  
18 state beyond -- just for our agency or even beyond  
19 our agency, I can't say.

20 Q Do you know whether any of the services  
21 identified in Exhibit 8, in the State supplemental  
22 response, Interrogatory 17, are evidence-based  
23 practices?

24 A I do not know.

25 Q Are you familiar with the term "functional

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1 behavioral assessment"?

2 A No.

3 I want to correct the last statement.

4 Q Please go ahead.

5 A I believe that Parent Peer Support and  
6 Youth Peer Support has obtained EBP status.

7 Q Any other additions?

8 A No.

9 Q Do you know if IC3 is an evidence-based  
10 service?

11 A I don't know per se. I do know that it  
12 has recently been rated as a promising practice on  
13 the Title IV Clearinghouse as of this month.

14 Q Could you describe what a promising  
15 practice is as distinct from an evidence-based  
16 practice?

17 A I don't know. I just know that for the  
18 federal reform under the Family First Act for --  
19 there are various -- like I said before, there are  
20 hundreds of evidence-based practices. Before  
21 eligibility for support, Federal Title IV funding  
22 support, those practices have to be submitted to the  
23 clearinghouse for review. And those that are  
24 approved -- and there are three levels of approval:  
25 I think supported, well supported, and promising.

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1               Any of those that are reviewed and rated  
2 and added to the clearinghouse are available for  
3 Title IV-E funding under the Federal Family First  
4 Prevention Services Act.

5               Q     Okay. Thank you.

6               I just want to make sure the record was  
7 clear. Were you familiar with the term "functional  
8 behavioral assessment"?

9               A     No.

10              Q     Do you know whether --

11              MR. HOLKINS: Let me ask that in a  
12 different way.

13              Q     Are the services identified in the State's  
14 supplemental response, Interrogatory No. 17, all  
15 available in general education settings in Georgia?

16              MR. PICO PRATS: Objection to form.

17              You can answer.

18              A     I don't know.

19              Q     Do you know whether these services are  
20 available to children enrolled in GNETS?

21              A     I don't know.

22              Q     And just to make this more specific...

23               To make this specific, do you know whether  
24 IC3, or Intensive Customized Care Coordination, is  
25 available in general education settings in Georgia?

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1 Q Could you elaborate?

2 A In the, in the course of discussions for  
3 like, say, school-based behavioral health, if we  
4 have heard in the community from community providers  
5 that they're having trouble with authorizations  
6 being -- services being authorized for one of their  
7 covered lives, if it was managed care covered lives,  
8 or even the length of the authorization and it was a  
9 trend, we would mention something like that in the  
10 meeting, and there would be some discussion, and  
11 there may be some follow-up by DCH and later  
12 reporting on what the follow-up -- what the outcomes  
13 of the follow-up.

14 Q Is that something that comes up just on a  
15 case-by-case basis with providers, or are you doing  
16 any kind of systemwide analysis of challenges around  
17 Medicaid authorizations?

18 A We don't do a systemwide analysis. It's  
19 more anecdotal. You know, we don't have the  
20 capacity to analyze that. We have the data that we  
21 get through the Center of Excellence, so through  
22 Georgia State.

23 But we have regular touchpoints throughout  
24 the year with providers, and anecdotally we will  
25 share things with DCH. Sometimes it's

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1 contract with the Center of Excellence, we wouldn't  
2 know the number of children that were managed care  
3 covered lives that were served.

4 Q Thank you.

5 Do you know if general education schools  
6 in Georgia can enroll as Medicaid providers where  
7 they're going directly to CMOs?

8 A I don't know the answer to that.

9 Q Do you know if GNETS facilities can enroll  
10 as Medicaid providers where they are billing  
11 directly to CMOs?

12 A I don't know the answer to that.

13 MR. HOLKINS: Let's move on to another  
14 document.

15 (WHEREUPON, Plaintiff's Exhibit-10 was  
16 marked for identification.)

17 BY MR. HOLKINS:

18 Q You've just been handed what has been  
19 marked Exhibit 10.

20 MR. HOLKINS: I'll note for the record  
21 this is a complete copy of the State of  
22 Georgia's Community Mental Health Services  
23 Block Grant Application for FY2021.

24 It's publicly available on the website of  
25 the U.S. Department of Health & Human Services.

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1                   As indicated on Pages 2 and 3 of the  
2 document, it was submitted by the Georgia  
3 Department of Behavioral Health and  
4 Developmental Disabilities on 9/3/2019 and  
5 revised on 12/3/2020.

6 BY MR. HOLKINS:

7 Q       Mr. McKay, have you ever seen this  
8 document before?

9 A       I've seen a portion of a draft of this  
10 document.

11 Q       And what portion of the document did you  
12 see a draft of?

13 A       Flipping through, it looks like it lists  
14 the indicators that we're required to submit to  
15 SAMHSA annually. So I have a role in updating  
16 those.

17               I suspect there may be a child and  
18 adolescent section in here. I would have been asked  
19 to review that for accuracy.

20 Q       Please take a moment.

21               If you're looking for the Child and  
22 Adolescent Mental Health section, it starts on Page  
23 95.

24 A       Yes, I would have been asked to review  
25 this portion of this document, but not in its

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1 Center of Excellence would need to request our  
2 permission.

3 But schools at the local district or local  
4 education authority level, I don't know what data  
5 they track. They may know that a child has been  
6 enrolled in IC3 and they may track that. Those  
7 metrics may or may not align with the data that we  
8 track, but I don't know if it exists.

9 So I imagine if you were to ask if, you  
10 know, someone was tracking IC3 enrollment, then  
11 maybe you could ask the local school districts if  
12 they're tracking it.

13 Q Can we return to Page 172 of the block  
14 grant.

15 You can set aside the email. Thank you.

16 A You said 172?

17 Q So picking up where we left off, in that  
18 same paragraph, in the middle of Page 172, it reads:  
19 "There are some areas where there are limited  
20 providers. In addition, there has been the need  
21 identified to provide services closer to where  
22 children live in their homes and communities to  
23 avoid more costly and intensive out of home  
24 treatment."

25 Do you see that?

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1 A Yes.

2 Q Do you agree with the title that there has  
3 been the need identified to provide services closer  
4 to where children live in their homes and  
5 communities to avoid more costly and intensive out  
6 of home treatment?

7 A Yes.

8 Q What's the basis for that belief?

9 A If you think about services on a -- there  
10 are a couple of different ways to assess them.

11 There are tiered services. So Tier 1 --  
12 and this may vary from agency to agency. And some  
13 -- our agency is a three-tier model, especially for  
14 Apex.

15 Tier 1, universal prevention, all  
16 children.

17 Tier 2 would be those identified at risk.  
18 You may suspect that there is some behavioral health  
19 deficiencies, but they haven't been identified. So  
20 you would start services to, to determine or not if  
21 there is a formal diagnosis.

22 And then Tier 3 would be intensive  
23 services, youth that have been you identified as  
24 having a behavioral health diagnosis.

25 So that's one framework.

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1           The other framework would be, laying on a  
2 scale from left to right, prevention services, early  
3 intervention, intervention, late intervention.

4           You -- from a general practice, generally  
5 speaking perspective, historically before some  
6 services that have come online over the last couple  
7 of years, services would be introduced at that Tier  
8 3, when students were already in an intensive stage  
9 and needed a diagnosis -- they would be assessed and  
10 a diagnosis would be there; or late intervention,  
11 meaning psychiatric residential treatment  
12 facilities, crisis stabilization.

13           It is better, in my opinion, from a  
14 general practice, to try to introduce services  
15 earlier on in the continuum. So universal Tier 1 or  
16 prevention, early intervention.

17           And so keeping that in mind, that would  
18 align with earlier identification access to try to,  
19 if possible, bend the acuity curve by not waiting  
20 for -- to connect with students when they're much  
21 sicker.

22           Q       Thank you very much for that.

23           So one of the goals in focusing on  
24 prevention-based services is to keep children closer  
25 to their homes and families; is that correct?

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1 A That's correct, yes.

2 Q So skipping to the next paragraph on the  
3 same page, the first line reads: "DBHDD will work  
4 with other child-serving agencies and partners to  
5 increase the number of youth with SED receiving  
6 services from public mental health system as well as  
7 increase the number of youth receiving services in  
8 their homes and communities."

9 Do you see that?

10 A Yes.

11 Q What efforts are you undertaking  
12 personally to work with other child-serving agencies  
13 and partners to increase the number of youth  
14 receiving services in their homes and communities?

15 A There are standing or regular meetings  
16 individually between the child-server agencies,  
17 between DBHDD and DCH.

18 We have now installed a liaison at the  
19 Department of Education part of the time, and they  
20 participate in a standing Apex meeting.

21 There were regular standing meetings prior  
22 to the change in leadership at the Department of  
23 Family and Children Services, so DFCS.

24 We participate on task forces in meetings  
25 that are led by the Department of Early Care and

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1 Learning. So that would be an example of just  
2 direct interagency participation.

3 Then there's something called an  
4 Interagency Directors Team that includes all of the  
5 child serving agencies that meets monthly. IDT is  
6 the organization that created the state System of  
7 Care plan. DBHDD provides the funding for that  
8 infrastructure. So we support and encourage  
9 collaboration between child-serving agencies that  
10 way.

11 And then there is something called the  
12 Local Interagency Planning Teams required by the  
13 Georgia statute. We provide administrative support  
14 for that function as well.

15 And in the statute it is required --  
16 child-serving agencies are required to participate  
17 in those local meetings.

18 Q Thank you.

19 Do you think your efforts working across  
20 child-serving agencies to increase the number of  
21 youth receiving services in their homes and  
22 communities have been successful?

23 MR. PICO PRATS: Objection.

24 A Yes.

25 Q Why?

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1 A From the -- so -- so yes.

2 Is it consistent? Like the data ebbs and  
3 flows, but, for example, Apex enrollment increased  
4 year over year prior to the pandemic. It has  
5 flattened out with the pandemic.

6 I think that is true of many of the -- for  
7 the data points that I've seen, it was -- there were  
8 year over year increases. But when the pandemic  
9 hit, some of those have flattened or in some cases  
10 decreased.

11 In terms of having a System of Care state  
12 plan, there were years where we did not have a  
13 System of Care state plan, and through our funding  
14 to support that administrative framework there was a  
15 plan that was created and implemented, and there is  
16 a current plan that's being implemented.

17 And so without our efforts, we feel that  
18 there would be no plan, no System of Care state plan  
19 in place, as it was prior to those efforts.

20 Q So returning to Page 172 of this document,  
21 the last full paragraph on the page, under the title  
22 "Use of Evidence-based Practices and Promising  
23 Practices," do you see that section?

24 A Yes.

25 Q The first line reads: "The ability to

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1 child welfare reform there are evidence-based  
2 practices that are being evaluated at the federal  
3 level, that are then added to a clearinghouse. So  
4 that determines -- that has some determination on  
5 what, what EPBs are funded and sustainable in  
6 communities to be provided by providers.

7 Q I understand that. I'm just trying to  
8 figure out what practices your office trains on  
9 currently, and I guess my next question is, who  
10 would be the right person on your staff to ask about  
11 that?

12 A I would say Dr. Adell Flowers would be  
13 best positioned to answer that question about my  
14 office.

15 She leads that work. She curated  
16 development of Clinical Developmental Academy, and  
17 selected the EPBs that are offered under that.

18 She leads the planning for the annual  
19 System of Care Academy and the EBPs that are offered  
20 as a part of that.

21 Q Thank you.

22 Please turn to Page 173. I'd like to  
23 direct you to the section entitled "Improve  
24 Functioning of Youth with SED."

25 And that paragraph starts: "DBHDD focuses

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1 on service provision that leads to improved  
2 functioning of youth with SED. The goal is to  
3 maintain youth in their homes, schools and  
4 communities and divert them from criminal justice  
5 and higher levels of care. The use of High-Fidelity  
6 Wraparound services with Care Management Entity  
7 Services provide for a coordinated approach to  
8 planning and acquiring along with a family and youth  
9 the services and supports that are needed to  
10 maintain a youth who is challenged with SED in their  
11 communities and to improve their functioning at  
12 home, in school and in their community."

13                   Do you see IC3 as important to helping  
14 DBHDD achieve its goal of maintaining youth in their  
15 homes, schools and communities and diverting them  
16 from criminal justice and higher levels of care?

17                   A     Yes.

18                   Q     Is that -- I'm sorry. Go ahead.

19                   A     I just said yes.

20                   Q     Okay. Is that true generally for the  
21 services that we discussed earlier that were  
22 identified in the State's supplemental response to  
23 Interrogatory No. 17?

24                   A     Generally speaking, yes.

25                   Clarification: IC3 is again more of a

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1 BY MR. HOLKINS:

2 Q You've just been handed what's been marked  
3 Exhibit 12. Please take a moment to review the  
4 document.

5 (Witness reviews exhibit.)

6 A Yes.

7 MR. HOLKINS: For the record, this is  
8 GA00653209, and was produced by the State of  
9 Georgia to the United States in this matter.

10 The title of this document is "FAQ for  
11 Agency Leadership."

12 BY MR. HOLKINS:

13 Q Mr. McKay, this is an FAQ regarding the  
14 Apex program that was developed for DBHDD  
15 leadership, correct?

16 A I'm uncertain.

17 I have seen a version of this document but  
18 I do not think this is the final draft of this  
19 document.

20 Q Well, let's focus specifically on Pages 1  
21 and 2. At the bottom of Page 1, carrying on to Page  
22 2, the FAQ that starts: "Can Apex clinician serve  
23 GNETS students?"

24 Do you see that?

25 A Yes.

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1 Q Does the answer to that question  
2 accurately capture DBHDD's policy with respect to  
3 Apex services being received by GNET students?

4 A No.

5 Q What's different?

6 A So the model of Apex is to serve all  
7 three-tiers. Providers receive funds to serve  
8 students in all three tiers within a particular  
9 school.

10 So if it is Tier 1, prevention; Tier 2, at  
11 risk; Tier 3, intensive services.

12 My understanding of the GNETS population  
13 is that they could possibly fit in Tier 2 but most  
14 likely they're going to fit in Tier 3.

15 Apex is not funded to just serve Tier 3  
16 settings. Again, the model is -- because students  
17 churn between the various tiers, from prevention, to  
18 maybe at risk, back to prevention. They may have a  
19 crisis which is Tier 3, and then they go back to  
20 prevention.

21 So the model is to serve all three tiers.

22 And so far GNETS programs, according to my  
23 understanding, that are embedded within the school,  
24 yes, that student could be served as part of the  
25 Apex program, just like any other student in the

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1 school.

2           If it is a GNETS program that is located  
3 on a campus, I would say the same is true.

4           If it is a standalone GNETS program, that  
5 model does not align with the Apex program.

6           Q     Thank you for that clarification.

7           And that decision was made by DBHDD to  
8 draw the lines in that way; is that correct?

9           Let me just try that again.

10          So this is DBHDD's policy with respect to  
11 the implementation of the Apex program, correct?

12          A     I would say -- so to reframe that  
13 question, this model, three-tier model, in some  
14 cases four-tier model, is generally accepted  
15 practice within this field. So DBHDD adopted the  
16 three-tier model; we didn't create it.

17          In adopting the three-tier model and  
18 utilizing that as policy, then, yes, you could say  
19 it is DBHDD policy to apply the three-tier model,  
20 but we did not create that.

21          Q     But you, DBHDD, did ultimately design  
22 Apex? It chose the three-tier model, correct?

23          A     Correct.

24          Q     And in so choosing, it precluded students  
25 enrolled in GNETS, at a standalone GNETS facility,

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1 from receiving Apex services, correct?

2 A I don't think that's an accurate  
3 statement.

4 Q Are students who are currently enrolled in  
5 GNETS, at a standalone GNETS facility, currently  
6 able to receive Apex services?

7 A That -- the standalone GNETS program  
8 doesn't align with the model.

9 So if an Apex provider only -- it would  
10 have to be a part of the overall programming.

11 MS. COHEN: Excuse me?

12 A It would have to be a part of the overall  
13 program, as determined by the provider and the  
14 school leadership, whether it's the superintendent  
15 or the director of student support services,  
16 supported by a member of, you know, MOU and some of  
17 the things that you have mentioned.

18 Q So in theory if --

19 MS. COHEN: Just a minute. I'm just  
20 hearing from some of my colleagues they can't  
21 hear, that the computer needs to be unmuted.

22 MR. HOLKINS: Can you guys hear us now?

23 MS. TAYLOE: Yes, thank you.

24 MS. COHEN: Thank you. Sorry to  
25 interrupt.

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1 BY MR. HOLKINS:

2 Q So in theory, if GNETS were to provide  
3 services across all three tiers, would that address  
4 DBHDD's concern as to providing Apex services --

5 MR. PICO PRATS: Objection.

6 Q -- to GNETS facilities?

7 MR. PICO PRATS: You can answer.

8 A Yes, that would align with the model.

9 Q Let me just reask the question so it's  
10 clear on the record.

11 If all three tiers of services were  
12 available in GNETS facilities, would GNETS  
13 facilities be eligible to receive Apex services?

14 MR. PICO PRATS: Same objection.

15 A Yes. But DBHDD would defer to the  
16 provider and local school leadership to include that  
17 in their proposal for funding support.

18 Q Ultimately, those applications from  
19 providers to enroll in the Apex program are received  
20 by DBHDD, correct?

21 A Correct.

22 Q And DBHDD makes the determination as to  
23 which providers will be enrolled?

24 A Correct, based upon some scoring criteria.

25 Q I'd like to show you another exhibit, 13.

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1                   (WHEREUPON, Plaintiff's Exhibit-21 was  
2                   marked for identification.)

3 BY MR. HOLKINS:

4 Q           Mr. McKay, you've just been handed what  
5 has been marked Exhibit 21.

6                   MR. HOLKINS: For the record, this is  
7                   GA01472050.

8 BY MR. HOLKINS:

9 Q           At the top right-hand corner of the  
10 document it reads "DBHDD - Gateway Behavioral Health  
11 Services, FY2021 - Georgia Apex Project (GAP)."

12                  Mr. McKay, is this an example of a  
13 standard contract between DBHDD and an Apex provider  
14 to which a copy of the provider responsibilities and  
15 deliverables would be attached?

16 A           I'm not seeing where Apex is listed.

17 Q           I direct you to the very top of the first  
18 page in the right corner.

19 A           Okay. I see it.

20                  And can you restate the question?

21 Q           Oh, sure.

22                  Would this be an example of a standard  
23 contract between DBHDD and an Apex provider to which  
24 a copy of the provider responsibilities and  
25 deliverables would be attached?

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1 A Yes.

2 Q And is this -- are these contracts  
3 standardized across all Apex providers?

4 A Yes.

5 Q Gateway Behavioral Health Services is a  
6 community service board, correct?

7 A Correct.

8 Q Does this document describe DBHDD's  
9 responsibilities with respect to Apex providers?

10 A I, I think it does, yes.

11 Q Can you point out where it does that?

12 A In each of the paragraphs it talks about  
13 -- so the first paragraph talks about this is a  
14 contract. So contractually binding between this  
15 organization and -- between Gateway and DBHDD.

16 It talks about the period of the contract  
17 in the second paragraph; lists information and  
18 points of contact; references our policy and  
19 provider manual; approved services and locations.

20 Should I continue?

21 Q No. That's good. Thank you.

22 Let's set aside the contract. I'd like to  
23 go back to the previous exhibit, which is Exhibit  
24 20, the provider responsibilities and deliverables,  
25 and specifically the text that we were reading

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1 earlier.

2 I'll read it again for the record.

3 "The hoped for result will include a  
4 reduction of children and youth in Georgia with  
5 unmet mental health needs, fewer discipline  
6 referrals, and increased academic performance among  
7 the children and youth who receive this school-based  
8 mental health service."

9 Has DBHDD set specific targets for the  
10 reduction of children and youth with unmet needs it  
11 hopes to achieve through the Apex program?

12 A Officially, no.

13 Q Are there unofficial targets?

14 A Yes. Unofficial target would be that this  
15 program is available in all public schools in the  
16 State of Georgia.

17 Q What do you think would be necessary to  
18 achieve that unofficial goal?

19 A It's a complicated answer. Factors would  
20 include funding, available workforce, available  
21 qualified workforce.

22 I'll stop right there. Just funding and  
23 available and qualified workforce to embed within  
24 those schools.

25 Q And by funding, are you specifically

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1 referencing to additional allocations of the State  
2 source dollars for the Apex program?

3 A Yes.

4 Q Do you have any sense of what amount of  
5 funding would be required?

6 A No.

7 MR. PICO PRATS: Objection.

8 Q Has there been any analysis -- has there  
9 been any analysis of the amount of funding that  
10 would be required to expand Apex to every public  
11 school in Georgia?

12 A No.

13 Q So please turn to Page 4 of Exhibit 20.  
14 First off, actually, let's go back one  
15 page. I apologize.

16 Page 3, No. 2, Deliverables.

17 Do you see where I am?

18 A Yes.

19 Q What are monthly progress reports?

20 A It is -- it is -- it is part of the  
21 monthly package of reports that we receive from the  
22 Center of Excellence. It will show by school the  
23 number of services provided in that particular  
24 month.

25 For example, it may say 20 students had 20